



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 5129-00
31 October 2000

[REDACTED]

This is in reference to your application for correction of your deceased spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1760 MMSR-6J of 14 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request. Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines such an appearance will serve some useful purpose. In your case, the Board determined that a personnel appearance was not necessary and considered your case based on the evidence of record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

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In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103


IN REPLY REFER TO:
1760
MMSR-6J
14 Sep 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF THE [REDACTED]
[REDACTED]

Ref: (a) MMR Route Sheet of 29Aug00, Docket No. 5129-00

1. The reference requests an advisory opinion on [REDACTED]'s petition to correct Gunnery Sergeant [REDACTED] record to show that he elected spouse coverage under the Survivor Benefit Plan (SBP) prior to his death on 5 February 1998.
2. The Retired Serviceman's Family Protection Plan (RSFPP) was the annuity plan in effect when Gunnery Sergeant [REDACTED] retired on 31 August 1964. There is nothing in his service record that indicates that he requested coverage in that plan for his first wife, Louise, when he retired. They divorced on 21 April 1965. Gunnery Sergeant [REDACTED] married [REDACTED] on 22 May 1966.
3. The Survivor Benefit Plan (SBP), created on 21 September 1972, superseded the RSFPP. Enrollment for members who retired before that date was not automatic. Previously retired members had until 20 March 1974 to enroll. Information and election forms were mailed to retirees in October 1972, using mailing labels prepared from the retired pay data bank at the Marine Corps Finance Center. Gunnery Sergeant [REDACTED] did not elect SBP coverage during this period.
4. He had other opportunities to elect SBP coverage during "Open Seasons" which lasted from 1 October 1981 thru 30 September 1982, and 1 April 1992 thru 31 March 1993. Like the original open enrollment period, these "Open Seasons" were highly publicized.
5. We cannot find any evidence to indicate that Gunnery Sergeant [REDACTED] chose to participate in either of the plans offered during his retirement. Unfortunately Mrs. [REDACTED] is, therefore, not entitled to a monthly SBP annuity.


J. P. RATHBUN, JR.
Head, Separation and
Retirement Branch
By direction of the Commandant
of the Marine Corps